

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

MARLENE G. MEYER,

Plaintiff,

-vs-

ARG ENTERPRISES, INC. aka STUART
ANDERSON'S CATTLE COMPANY
RESTAURANTS,

Defendant.

Case No. 3:05-cv-00239-TMB /

DEPOSITION OF RICHARD BUTTON

Pages 1 - 44 inclusive

September 28, 2006, 10:00 a.m.

Anchorage, Alaska

Exhibit A
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1 Q. I understand there are standards for making 2 sidewalks. We talked about settling. We talked about 3 freezing. I'm going to assume tree roots can push out 4 pieces of sidewalk? 5 A. Yes, they can. 6 Q. Is that a code violation when the piece of 7 sidewalk becomes unlevel with the adjoining piece? 8 A. Yeah, I would -- I would say that it would be a 9 code violation. 10 Q. Is there any enforcement of those violations? 11 Is that something, you call the Municipality of Anchorage 12 and they'll enforce the code? 13 A. No. You could call them, and they probably 14 should -- I -- I guess I don't have an opinion on that, 15 because I haven't done it, so -- 16 Q. If you were the officer to say that this 17 sidewalk was a code violation, what provision would you 18 cite? 19 A. I would go back to the sections that say that -- 20 that the maximum difference in elevation that you're 21 allowed on any path of egress is a half-an-inch. And 22 that happens at doorways or thresholds. And that's the 23 exception that's made because, as a practical matter, you 24 need to have a threshold in a doorway. 25 Q. Now, in your report you cite section 1008.1.6	1 A. I would say that, yes, there probably is. I 2 don't have access to it here today. But I can tell you 3 for sure that it is understood. 4 Q. How about in this particular case at the Cattle 5 Company, the curb out to the parking lot, that appears to 6 be out of flat, that's an exception to the flatness of 7 where people walk? 8 A. You're allowed to have rises at stairs and curbs 9 up to seven inches. So I'm -- I mean, so between your 10 street and the typical height for a curb is six inches, 11 but the code allows for stairways a maximum rise or 12 height of seven inches. 13 Q. Is there a minimum rise or height? 14 A. I think it's four. I would have to go back and 15 look. But, yes, they do have a maximum/minimum for the 16 same reason, they don't want -- there is a certain level 17 that people don't perceive well. And so you -- tripping 18 becomes a problem, too, so they define a minimum stair 19 riser height and a maximum. 20 Q. When you say there's a point people don't 21 perceive well, what is the basis of that opinion? What 22 background -- 23 A. That's just general conversation with my 24 colleagues over the years. 25 Q. Any colleagues with particular psychological
1 for thresholds. Where is the provision that says 2 sidewalks can't be out of level? Or that -- is there any 3 provision that says -- that says this, the egress has to 4 be continuous? 5 A. There is a section. I guess the assumption is 6 that -- and it's -- it -- I would have to go back and see 7 if I could track down the section, but the assumption of 8 all codes is that the floors are level. That's why you 9 can walk across the lobby here and not end up with 10 changes in floor level, even though it might be 11 convenient, and have tripping hazards. 12 Q. That's an assumption of the code, but it's not a 13 provision of the code. 14 A. Well, it is -- they have accepted the flatness 15 at doorways. So they've given you -- they've allowed 16 that there be a half-inch exception to flat when you walk 17 through a door. I mean, otherwise you wouldn't be 18 allowed that, otherwise you would have to have a flat 19 level means of travel through doorways, which is 20 impractical. 21 Q. I'm not arguing what's smart design or what's 22 good design. 23 A. Sure. 24 Q. But is there a provision that says we're going 25 to have flatness? Is there a specific provision?	1 training? 2 A. No, just general conversation. 3 Q. Engineering colleagues? 4 A. And architectural colleagues. 5 Q. Is there a minimum height for curbs? Is that 6 the same as stairs, or -- 7 A. You know, I don't know if there's a minimum 8 height. The Muni has standards for curbs. You can have 9 a rolled curb. You can have a curb for handicapped 10 access. And the -- I believe the -- I'd have to go take 11 a look at the typical detail, I think it probably rolls 12 down to about an inch or half-an-inch, something like 13 that. Those are just standard details that are put out 14 by the Muni. 15 And so the six inches works well. That's 16 usually the curb that we adopt and use in our projects. 17 Although, as I said, they have specific details for -- 18 approved details for a handicapped access from a sidewalk 19 to a street. 20 Q. I think we're just about done. Just a second 21 here. 22 You would agree this sidewalk is not a landing 23 or a threshold; is that a fair statement? 24 A. Uh-huh. 25 Q. That's a yes?